

INSURANCE CODE
TITLE 13. REGULATION OF PROFESSIONALS
SUBTITLE D. OTHER PROFESSIONALS
CHAPTER 4151. THIRD-PARTY ADMINISTRATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4151.001. DEFINITIONS. In this chapter:

(1) "Administrator" means a person who, in connection with annuities or life benefits, health benefits, accident benefits, pharmacy benefits, or workers' compensation benefits, collects premiums or contributions from or adjusts or settles claims for residents of this state. The term includes a delegated entity under Chapter 1272 and a workers' compensation health care network authorized under Chapter 1305 that administers a workers' compensation claim for an insurer, including an insurer that establishes or contracts with the network to provide health care services. The term does not include a person described by Section 4151.002.

(2) "Insurer" means a person who engages in the business of life, health, accident, or workers' compensation insurance under the law of this state. For purposes of this chapter only, the term also includes an "insurance carrier," as defined by Section 401.011(27), Labor Code, other than a governmental entity or a workers' compensation self-insurance group subject to regulation under Chapter 407A, Labor Code.

(3) "Person" means an individual, partnership, corporation, organization, government or governmental subdivision or agency, business trust, estate trust, association, or any other legal entity.

(4) "Plan" means a plan, fund, or program established, adopted, or maintained by a plan sponsor or insurer to the extent that the plan, fund, or program is established, adopted, or maintained to provide indemnification or expense reimbursement for any type of life, health, or accident benefit.

(5) "Plan sponsor" means a person, other than an insurer, who establishes, adopts, or maintains a plan that covers

residents of this state, including a plan established, adopted, or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, an association, a committee, a joint board of trustees, or any similar group of representatives who establish, adopt, or maintain a plan.

(6) "Workers' compensation benefits" means benefits provided under Title 5, Labor Code, or services provided through a certified workers' compensation health care network authorized under Chapter 1305.

(7) "Workers' compensation insurance coverage" means coverage subject to Subtitle E, Title 10. The term includes coverage described by Sections 401.011(44)(A) and (B), Labor Code.

(8) "Workers' compensation self-insurer" means a legal entity subject to regulation under Chapter 407, Labor Code.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.01, eff. September 1, 2007.

Sec. 4151.002. EXEMPTIONS. A person is not an administrator if the person is:

(1) an employer, other than a certified workers' compensation self-insurer, administering an employee benefit plan or the plan of an affiliated employer under common management and control;

(2) a union administering a benefit plan on behalf of its members;

(3) an insurer or a group hospital service corporation subject to Chapter 842 acting with respect to a policy lawfully issued and delivered by the insurer or corporation in and under the law of a state in which the insurer or corporation was authorized to engage in the business of insurance;

(4) a health maintenance organization that is authorized to operate in this state under Chapter 843 with respect to any activity that is specifically regulated under that chapter, Chapter 1271, 1272, or 1367, Subchapter A, Chapter 1452, or Subchapter B, Chapter 1507;

(5) an agent licensed under Subchapter B, Chapter 4051, Subchapter B, Chapter 4053, or Subchapter B, Chapter 4054, who receives commissions as an agent and is acting:

(A) under appointment on behalf of an insurer authorized to engage in the business of insurance in this state; and

(B) in the customary scope and duties of the person's authority as an agent;

(6) a creditor acting on behalf of its debtor with respect to insurance that covers a debt between the creditor and its debtor, if the creditor performs only the functions of a group policyholder or a creditor;

(7) a trust established in conformity with 29 U.S.C. Section 186 or a trustee or employee who is acting under the trust;

(8) a trust that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, or a trustee or employee acting under the trust;

(9) a custodian or a custodian's agent or employee who is acting under a custodian account that complies with Section 401(f), Internal Revenue Code of 1986;

(10) a bank, credit union, savings and loan association, or other financial institution that is subject to supervision or examination under federal or state law by a federal or state regulatory authority, if the institution is performing only those functions for which the institution holds a license under federal or state law;

(11) a company that advances and collects a premium or charge from its credit card holders on their authorization, if the company does not adjust or settle claims and acts only in the company's debtor-creditor relationship with its credit card holders;

(12) a person who adjusts or settles claims in the normal course of the person's practice or employment as a licensed attorney and who does not collect any premium or charge in connection with annuities or with life, health, accident, pharmacy, or workers' compensation benefits;

(13) an adjuster licensed under Subtitle C by the department who is engaged in the performance of the individual's

powers and duties as an adjuster in the scope of the individual's license;

(14) a person who provides technical, advisory, utilization review, precertification, or consulting services to an insurer, plan, or plan sponsor but does not make any management or discretionary decisions on behalf of the insurer, plan, or plan sponsor;

(15) an attorney in fact for a Lloyd's plan operating under Chapter 941 or for a reciprocal or interinsurance exchange operating under Chapter 942 who is acting in the capacity of attorney in fact under the applicable chapter;

(16) a joint fund, risk management pool, or self-insurance pool composed of political subdivisions of this state that participate in a fund or pool through interlocal agreements, any nonprofit administrative agency or governing body or other nonprofit entity that acts solely on behalf of a fund, pool, agency, or body, or any other fund, pool, agency, or body established under or for the purpose of implementing an interlocal governmental agreement;

(17) a self-insured political subdivision;

(18) a plan under which insurance benefits are provided exclusively by an insurer authorized to engage in the business of insurance in this state and the administrator of which is:

(A) a full-time employee of the plan's organizing or sponsoring association, trust, or other entity; or

(B) a trustee of the organizing or sponsoring trust;

(19) a parent of a wholly owned direct or indirect subsidiary insurer authorized to engage in the business of insurance in this state or a wholly owned direct or indirect subsidiary insurer that is a part of the parent's holding company system that, under an agreement regulated and approved under Chapter 823 or a similar statute of the domiciliary state if the parent or subsidiary insurer is a foreign insurer engaged in business in this state, on behalf of only itself or an affiliated insurer:

(A) collects premiums or contributions, if the parent or subsidiary insurer:

(i) prepares only billing statements and places those statements in the United States mail; and

(ii) causes all collected premiums to be deposited directly in a depository account of the particular affiliated insurer; or

(B) furnishes proof-of-loss forms, reviews claims, determines the amount of the liability for those claims, and negotiates settlements, if the parent or subsidiary insurer pays claims only from the funds of the particular subsidiary by checks or drafts of that subsidiary; or

(20) an affiliate, as described by Chapter 823.003, of a self-insurer certified under Chapter 407, Labor Code, and who:

(A) is performing the acts of an administrator on behalf of that certified self-insurer; and

(B) directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with that certified self-insurer, as the term "control" is described by Section 823.005.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.074(j), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.02, eff. September 1, 2007.

Sec. 4151.0021. APPLICABILITY TO CERTAIN PROCESSING AGENTS.

(a) In this section, "processing agent" means a person described by Section 413.0111, Labor Code.

(b) A processing agent is not an administrator for purposes of this chapter if the processing agent is acting as an assignee of a pharmacy and if:

(1) the assignee has a written contract with the pharmacy to:

(A) act as the provider of licensed pharmacy services in lieu of the pharmacy; and

(B) purchase the pharmacy's claims at face value, or at a value expressly stated in the contract; and

(2) the contract specifically prohibits the assignee from performing any function of an administrator, as that term is defined in this chapter, unless the assignee holds a certificate of authority under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.03, eff. September 1, 2007.

Sec. 4151.0022. NONAPPLICABILITY. This chapter does not apply to a health care sharing ministry operated under Chapter [1681](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 455 (S.B. [874](#)), Sec. 4, eff. June 14, 2013.

Sec. 4151.003. APPLICABILITY OF OTHER PROVISIONS OF CODE. An administrator is subject to Section [823.457](#), Subchapter H of Chapter [101](#), Chapter [541](#), Subchapter A of Chapter [542](#), and Chapter [804](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.0031. MARKET ANALYSIS. The commissioner may conduct market analyses and examinations of an administrator under Chapter [751](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.03, eff. September 1, 2007.

Sec. 4151.004. APPLICABILITY TO CERTAIN INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS. An insurer or health maintenance organization that is not exempt under Section [4151.002](#)(3) or (4) is subject to all provisions of this chapter other than Sections [4151.005](#), [4151.051-4151.054](#), [4151.056](#), and [4151.206](#)(a)(1).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.005. ADMINISTRATOR NOT INSURANCE AGENT. (a) An administrator licensed in any state who accepts an agent's commission for coverage for a risk located in this state and

disburses that commission to an agent in this state is not considered an agent for purposes of this state's laws relating to the licensing of agents.

(b) The exemption provided by this section does not authorize an administrator to perform any other act for which a license as an agent is required by law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.0051. REFERRAL TO ADJUSTER BY ADMINISTRATOR. (a) An administrator may not knowingly refer a claim or loss for adjustment in this state to an individual purporting to be or acting as an adjuster unless the individual holds a license under Chapter [4101](#).

(b) Before first referring a claim or loss for adjustment, an administrator must ascertain from the commissioner whether the individual selected to perform the adjustment holds a license under Chapter [4101](#). After receipt of information from the department that the individual does hold an adjuster license, the administrator may refer claims or losses to the individual for adjustment until the administrator has actual knowledge or receives information from the department that the individual no longer holds an adjuster license under Chapter [4101](#). The department shall keep an updated list of individuals who hold adjuster licenses.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.03, eff. September 1, 2007.

Sec. 4151.006. RULES. The commissioner may adopt, in the manner prescribed by Subchapter A, Chapter [36](#), rules that are fair, reasonable, and appropriate to augment and implement this chapter, including rules establishing financial standards, reporting requirements, and required contract provisions.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.04, eff. September 1, 2007.

SUBCHAPTER B. CERTIFICATE OF AUTHORITY

Sec. 4151.051. CERTIFICATE OF AUTHORITY REQUIRED. (a) An individual, corporation, organization, trust, partnership, or other legal entity may not act as or hold itself out as an administrator unless the entity is covered by and is engaging in business under a certificate of authority issued under this chapter.

(b) An administrator is required to hold only one certificate of authority issued under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.052. APPLICATION. (a) An application for a certificate of authority to engage in business as an administrator must be in a form prescribed by the commissioner and must include the following:

(1) a copy of each basic organizational document of the applicant, including the articles of incorporation, bylaws, articles of association, trade name certificate, and any other similar document and a copy of any amendment to any of those documents;

(2) a description of the applicant and the applicant's services, facilities, and personnel;

(3) if the applicant is not domiciled in this state, a power of attorney executed by the applicant appointing the commissioner, the commissioner's successors in office, or the commissioner's appointed designee as the applicant's attorney in this state on whom process may be served in any legal action or proceeding based on a cause of action arising in this state against the applicant;

(4) an audited financial statement of the applicant covering the preceding three calendar years or any lesser period that the applicant and any predecessors of the applicant have been in existence, or if an audited financial statement is not available, an unaudited financial statement as of a date not earlier than the 120th day before the date the application is filed, accompanied by an affidavit or certification of the applicant that:

(A) the unaudited financial statement is true and

correct, as of its date; and

(B) a material change in financial condition has not occurred from the date of the financial statement to the execution date of the affidavit or certification; and

(5) any other information the commissioner reasonably requires.

(b) An applicant for a certificate of authority or a certificate holder under this chapter shall notify the department in the manner prescribed by commissioner rule of a change of control in the applicant's or certificate holder's ownership not later than the 30th day after the effective date of the change and shall notify the department of any other fact or circumstance affecting the applicant's or certificate holder's qualifications for a certificate of authority in this state as required by commissioner rule.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.05, eff. September 1, 2007.

Sec. 4151.053. APPROVAL OF APPLICATION. The commissioner shall approve an application for a certificate of authority to engage in business in this state as an administrator if the commissioner is satisfied that:

(1) granting the application would not violate a federal or state law;

(2) the financial condition of the applicant or of each person who would operate or control the applicant is such that granting a certificate of authority would not be adverse to the public interest;

(3) the applicant has not attempted to obtain the certificate of authority through fraud or bad faith;

(4) the applicant has complied with this chapter and rules adopted by the commissioner under this chapter; and

(5) the name under which the applicant will engage in business in this state is not so similar to that of another administrator or insurer that it is likely to mislead the public.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.054. DENIAL OF APPLICATION. (a) If the commissioner is unable to approve an application for a certificate of authority, the commissioner shall:

(1) provide the applicant with written notice specifying each deficiency in the application; and

(2) offer the applicant the opportunity for a hearing to address each reason and circumstance for possible denial of the application.

(b) The commissioner must provide an opportunity for a hearing before the commissioner finally denies an application.

(c) At the hearing, the applicant has the burden to produce sufficient competent evidence on which the commissioner can make the determinations required by Section [4151.053](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.055. FIDELITY BOND REQUIRED. (a) If the commissioner approves an application for a certificate of authority, before the commissioner issues the certificate of authority, the applicant must:

(1) obtain and maintain a fidelity bond that complies with this section; and

(2) submit to the commissioner proof that the applicant has obtained the fidelity bond.

(b) The fidelity bond must protect against an act of fraud or dishonesty by the applicant in exercising the applicant's powers and duties as administrator.

(c) The fidelity bond may not be less than \$10,000 and may not be more than the lesser of:

(1) 10 percent of the amount of funds handled during the preceding year or, if no funds were handled during the preceding year, 10 percent of the amount of funds reasonably estimated to be handled by the administrator during the current calendar year; or

(2) \$500,000.

(d) On written request by an administrator for reduction of the amount of the fidelity bond for a particular year, the

commissioner may authorize the reduction of the amount of the bond if the administrator presents evidence that the amount of funds to be handled during that year will be less than the amount handled during the preceding year.

(e) For purposes of this section, the amount of funds handled by a person in the person's capacity as administrator is either the total amount of premiums and contributions received by the administrator or the total amount of benefits paid by the administrator, whichever is greater, during the preceding calendar year in all jurisdictions in which the person acts as an administrator.

(f) Unless the administrator and the insurer or plan agree otherwise in writing, an administrator is required to obtain and maintain only one fidelity bond for all insurers and plans for which the administrator acts as administrator in this state.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.056. DURATION OF CERTIFICATE OF AUTHORITY. A certificate of authority issued to an administrator under this chapter is effective until it is suspended, canceled, or revoked. The issuance, denial, suspension, cancellation, or revocation of a certificate of authority to act as an administrator is subject to:

- (1) Subchapters B and C, Chapter 4005;
- (2) Chapter 82; and
- (3) Subchapter G.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.06, eff. September 1, 2007.

SUBCHAPTER C. POWERS AND DUTIES OF ADMINISTRATORS AND INSURERS

Sec. 4151.101. WRITTEN AGREEMENT WITH INSURER OR PLAN SPONSOR REQUIRED. (a) An administrator may provide services only under a written agreement with an insurer or plan sponsor.

(b) The commissioner by rule may prescribe provisions that

must be included in the written agreement.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.08, eff. September 1, 2007.

Sec. 4151.102. CONTENTS OF WRITTEN AGREEMENT. (a) The written agreement must include each requirement prescribed by this subchapter except for a requirement that does not apply to any function the administrator performs.

(a-1) The written agreement must include a statement of the duties that the administrator is expected to perform on behalf of the insurer, and the lines, classes, or types of insurance that the administrator is authorized to administer. The agreement must include, as applicable, provisions regarding claims handling and other standards relating to the business underwritten by the insurer.

(b) If a policy or plan document is issued to a trustee, a copy of the trust agreement and any amendment to that trust agreement becomes part of the written agreement.

(c) The written agreement may not contain a provision that unreasonably restricts the availability to a plan participant of an individual life, health, or accident policy or annuity through an agent selected by the plan participant.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.09, eff. September 1, 2007.

Sec. 4151.103. RETENTION OF WRITTEN AGREEMENT; INSPECTION BY COMMISSIONER. (a) The administrator and the insurer, plan, or plan sponsor shall retain a copy of the written agreement as part of their official records:

(1) during the term of the agreement; and

(2) until the fifth anniversary of the date on which the agreement expires.

(b) On written request by the commissioner, the

administrator shall make the written agreement available for inspection by the commissioner or the commissioner's designee.

(c) Information the commissioner or the commissioner's designee obtains from the written agreement is confidential and may not be made available to the public. An employee of the department may examine the information in exercising powers and performing duties under this chapter.

(d) The commissioner shall adopt rules to address the transfer of records from one administrator to another.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.10, eff. September 1, 2007.

Sec. 4151.104. NOTICE OF USE OF ADMINISTRATOR'S SERVICES.

(a) If an insurer, plan, or plan sponsor uses the services of an administrator, the administrator shall give written notice to each insured and injured employee of the administrator's identity and the relationship among the administrator and the insurer, plan, or plan sponsor and the insured and injured employee. The insurer, plan, or plan sponsor must approve the notice before the notice is distributed.

(b) An administrator administering workers' compensation claims may satisfy the requirements of Subsection (a) by including the notice as part of, or in conjunction with, the notice required under Section 406.005(c), Labor Code.

(c) An administrator who fails to provide notice as required by Subsection (a) is subject to an administrative penalty in the manner provided by Chapter 84.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.11, eff. September 1, 2007.

Sec. 4151.1041. REFERRAL BY INSURER. (a) An insurer may not knowingly refer a claim or loss for administration in this state to a person purporting to be or acting as an administrator unless

the person holds a certificate of authority under this chapter.

(b) Before first referring a claim or loss for administration, an insurer must ascertain from the commissioner whether the person performing the administration holds a certificate of authority under this chapter. Once the insurer has ascertained that the person holds a certificate of authority, the insurer may refer a claim to the person for administration and may continue to refer claims to the person until the insurer has knowledge or receives information from the commissioner that the person no longer holds a certificate of authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.12, eff. September 1, 2007.

Sec. 4151.1042. RESPONSIBILITIES OF INSURER; SEMIANNUAL AUDIT. (a) If an insurer uses the services of an administrator, the insurer is responsible for determining the benefits, premium rates, reimbursement procedures, and claims payment procedures applicable to the coverage and for securing reinsurance, if any. The insurer shall provide a copy of the written requirements relating to those matters to the administrator. The responsibilities of the administrator as to any of those matters must be set forth in the written agreement between the administrator and the insurer.

(b) An insurer shall ensure competent administration of its programs.

(c) If an administrator administers benefits for more than 100 certificate holders, injured employees, plan participants, or policyholders on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the administrator. At least biennially, the insurer shall conduct an on-site audit of the operations of the administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.12, eff. September 1, 2007.

Sec. 4151.105. PAYMENTS TO ADMINISTRATOR. (a) If an insurer, plan, or plan sponsor uses the services of an administrator:

(1) a payment of a premium or contribution to the administrator by or on behalf of an insured or plan participant is considered to have been received by the insurer, plan, or plan sponsor; and

(2) a payment of a return premium, contribution, or claim to the administrator by the insurer, plan, or plan sponsor is not considered payment to the insured, plan participant, or claimant until the insured, plan participant, or claimant receives the payment.

(b) This section does not limit a right of an insurer, plan, or plan sponsor against the administrator resulting from the administrator's failure to make a payment to an insured, plan participant, or claimant.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.106. CERTAIN FUNDS COLLECTED OR RECEIVED BY ADMINISTRATOR. (a) An administrator who collects funds must identify and state separately in writing the amount of any premium or contribution specified by the insurer, plan, or plan sponsor for the coverage and provide the information to any person who pays to the administrator a premium or contribution.

(b) An administrator holds in a fiduciary capacity:

(1) a premium or contribution the administrator collects on behalf of an insurer, plan, or plan sponsor; and

(2) a return premium the administrator receives from an insurer, plan, or plan sponsor.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.107. DELIVERY OR DEPOSIT OF CERTAIN FUNDS RECEIVED BY ADMINISTRATOR. (a) On receiving a premium, contribution, or return premium, an administrator shall:

(1) timely deliver the funds to the person entitled to the funds according to terms of the written agreement; or

(2) promptly deposit the funds in a fiduciary bank account established and maintained by the administrator.

(b) If premiums or contributions deposited in a fiduciary bank account were collected on behalf of more than one insurer,

plan, or plan sponsor, the administrator shall:

(1) maintain records that clearly record separately the deposits to and withdrawals from the account on behalf of each insurer, plan, or plan sponsor; and

(2) on request of an insurer, plan, or plan sponsor, provide to the insurer, plan, or plan sponsor a copy of the records relating to deposits and withdrawals on behalf of that insurer or plan.

(c) The requirements of Subsection (b):

(1) are in addition to requirements of any other federal or state law; and

(2) do not authorize the commingling of funds if otherwise prohibited by law.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.108. WITHDRAWALS FROM FIDUCIARY ACCOUNT. A withdrawal from a fiduciary bank account established under Section [4151.107](#) may be made only as provided in the written agreement for any of the following purposes:

(1) delivery to an insurer, plan, or plan sponsor entitled to payment;

(2) deposit in an account controlled and maintained in the name of the insurer, plan, or plan sponsor;

(3) transfer to and deposit in a claims payment account for payment of a claim as provided by Section [4151.111](#);

(4) payment to a group policyholder for delivery to the insurer entitled to payment;

(5) payment to the administrator of the administrator's commission, fees, or charges;

(6) delivery of a return premium to any person entitled to payment; or

(7) payment of a premium for stop-loss or excess loss insurance.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.109. PAYMENT OF CLAIMS FROM FIDUCIARY ACCOUNT PROHIBITED. An administrator may not pay a claim from a fiduciary

bank account established under Section [4151.107](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.110. UNDERWRITING STANDARDS. If an administrator has the authority to accept or reject a risk, the written agreement must address underwriting or other standards of the insurer or plan.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.111. ADJUDICATION OF CLAIMS. (a) An administrator shall adjudicate a claim not later than the 60th day after the date on which the administrator receives valid proof of loss in connection with the claim.

(b) The administrator shall pay each claim on a draft authorized by the insurer, plan, or plan sponsor in the written agreement.

(c) In the event of a conflict between this section and a provision of the Labor Code relating to time periods for adjudication and payment of workers' compensation claims, the Labor Code provision prevails.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.13, eff. September 1, 2007.

Sec. 4151.112. MAINTENANCE OF BOOKS AND RECORDS. (a) An administrator shall maintain at the administrator's principal administrative office adequate books and records of each transaction in which the administrator engages with an insurer, plan, plan sponsor, insured, or plan participant.

(b) The administrator shall maintain the books and records:

(1) until the fifth anniversary of the end of the term of the written agreement to which the books and records relate; and

(2) in accordance with prudent standards of insurance recordkeeping.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.113. ACCESS TO BOOKS AND RECORDS. (a) For the purpose of examination, audit, and inspection, the administrator shall provide to the commissioner and the commissioner's designee access to the books and records maintained as required by Section [4151.112](#).

(b) A trade secret, including the identity and address of a policyholder, certificate holder, or injured employee, is confidential, except the commissioner may use that information in a proceeding against the administrator.

(c) An insurer, plan, or plan sponsor is entitled to continuing access to the books and records sufficient to permit the insurer, plan, or plan sponsor to fulfill a contractual obligation to an insured or plan participant. The right provided by this subsection is subject to any restriction included in the written agreement relating to the parties' proprietary rights to the books and records.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.14, eff. September 1, 2007.

Sec. 4151.114. DISPOSITION OF BOOKS AND RECORDS ON TERMINATION OF WRITTEN AGREEMENT. On termination of the written agreement, an administrator may fulfill the requirements of Sections [4151.112](#) and [4151.113](#) by:

(1) delivering the books and records:

(A) to a successor administrator; or

(B) if there is not a successor administrator, to the insurer, plan, or plan sponsor; and

(2) giving written notice to the commissioner of the location of the books and records.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.115. CONFIDENTIALITY OF PERSONAL INFORMATION.

(a) Information that identifies an individual covered by a plan is confidential.

(b) During the time information described by Subsection (a)

is in an administrator's custody or control, the administrator shall take all reasonable precautions to prevent disclosure or use of the information for a purpose unrelated to administration of the plan.

(c) The administrator shall disclose information described by Subsection (a) only:

(1) in response to a court order;

(2) for an examination conducted by the commissioner under this chapter;

(3) for an audit or investigation conducted under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

(4) to or at the request of the insurer or plan sponsor; or

(5) with the written consent of the identified individual or the individual's legal representative.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.116. ADVERTISING. Before an administrator uses advertising relating to business underwritten by an insurer, plan, or plan sponsor, the insurer, plan, or plan sponsor must approve use of the advertising.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.117. COMPENSATION OF ADMINISTRATOR. (a) An administrator's compensation may be determined:

(1) as a percentage of the premiums or charges the administrator collects or the amount of claims the administrator pays or processes; or

(2) except as provided by Subsection (b), on another basis as specified in the written agreement.

(b) An insurer or plan sponsor may not permit or provide compensation or another thing of value to an administrator that is based on the savings accruing to the insurer or plan sponsor because of adverse determinations regarding claims for benefits, reductions of or limitations on benefits, or other analogous actions inconsistent with this chapter, that are made or taken by

the administrator.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.15, eff. September 1, 2007.

SUBCHAPTER D. PHARMACY BENEFIT PLANS

Sec. 4151.151. DEFINITION. In this subchapter, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.152. IDENTIFICATION CARDS. (a) Except as provided by rules adopted by the commissioner, an administrator for a plan that provides pharmacy benefits shall issue an identification card to each individual covered by the plan. The administrator shall issue the identification card not later than the 30th day after the date the administrator receives notice that the individual is eligible for the benefits.

(b) The commissioner by rule shall adopt standard information to be included on the identification card. The standard form identification card must include:

(1) the name or logo of the entity administering the pharmacy benefits;

(2) the international identification number assigned by the American National Standards Institute for the entity administering the pharmacy benefits;

(3) the group number applicable to the covered individual;

(4) the effective date of the coverage evidenced by the card;

(5) a telephone number to be used to contact an appropriate person to obtain information relating to the pharmacy benefits provided under the coverage; and

(6) copayment information for generic and brand-name

prescription drugs.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.153. DISCLOSURE OF CERTAIN PATIENT INFORMATION PROHIBITED. (a) A pharmacy benefit manager may not sell a list of patients that contains information through which the identity of an individual patient is disclosed.

(b) A pharmacy benefit manager shall maintain all data that identifies a patient in a confidential manner that prevents disclosure to a third party unless the disclosure is otherwise authorized by law or by the patient.

(c) This section does not prohibit:

(1) general advertising about a specific pharmaceutical product or service; or

(2) the request and receipt by a person of information regarding:

(A) a specific pharmaceutical product or service;

(B) the person's own records or claims; or

(C) the person's dependent's records or claims.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.154. DISCOUNT HEALTH CARE PROGRAMS. A pharmacy benefit manager may not require a pharmacist or pharmacy to:

(1) accept or process a claim for prescription drugs under a discount health care program as defined by Section [7001.001](#) unless the pharmacist or pharmacy agrees in writing to accept or process the claim;

(2) participate in a specified provider network as a condition of processing a claim for prescription drugs under a discount health care program; or

(3) participate in, or process claims under, a discount health care program as a condition of participation in a provider network.

Added by Acts 2015, 84th Leg., R.S., Ch. 573 (H.B. [3028](#)), Sec. 2, eff. September 1, 2015.

SUBCHAPTER E. DEPARTMENT REGULATION OF ADMINISTRATORS

Sec. 4151.201. EXAMINATION OF ADMINISTRATOR. (a) The commissioner may examine an administrator with regard to its business in this state.

(b) The commissioner may designate one or more employees to perform an examination.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.202. CONTENTS OF EXAMINATION; ON-SITE EVALUATION. (a) An examination under Section 4151.201 must include a review of:

(1) each existing written agreement between the administrator and an insurer or plan sponsor; and

(2) the administrator's financial statements.

(b) The commissioner also may have examiners conduct an on-site evaluation of the administrator's personnel and facilities and any books and records of the administrator relating to the transaction of business by and the financial condition of the administrator.

(c) Before an examiner enters an administrator's property, the commissioner shall give notice to the administrator of the examiner's intent to conduct an on-site evaluation. The notice must:

(1) be in the form required by rule adopted by the commissioner; and

(2) include the date and estimated time that the examiner will enter the administrator's property.

(d) An examiner shall comply with operational rules of an administrator while on the administrator's property.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.203. COST OF EXAMINATION. The cost of an examination under Section 4151.201 shall be paid from the fee collected under Section 4151.206(a)(2) and with revenue from the maintenance tax levied under Chapter 259.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.204. EXAMINATION UNDER OATH. If necessary to make a complete evaluation of the activities and operations of an administrator, the commissioner may summon and examine under oath the administrator and the administrator's personnel.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Sec. 4151.205. ANNUAL REPORT. (a) An administrator shall annually, not later than June 30, file with the commissioner a report on a form prescribed by the commissioner. The report must contain any information required by the commissioner and must be verified by at least two officers of the administrator.

(b) The annual report must cover the preceding calendar year.

(c) Except as provided by Subsection (f), the annual report must include an audited financial statement performed by an independent certified public accountant. An audited financial statement prepared on a consolidated basis must include a columnar consolidating or combining worksheet that shall be filed with the annual report and must comply with the following:

(1) amounts shown on the consolidated audited financial report must be shown on the worksheet;

(2) amounts for each entity must be stated separately; and

(3) explanations of consolidating and eliminating entries must be included.

(d) The annual report must include notes to the financial statement or attachments that reflect the complete name and address of each insurer in this state with which the administrator had an agreement during the preceding fiscal year.

(e) Information derived from an audited financial statement contained in an annual report under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

(f) An administrator who receives less than \$10 million annually as compensation for performing administrative services and operates under written agreements subject to this chapter with

insurers or plan sponsors in this state is not required to file an audited financial statement under Subsection (c), but must file a financial statement certified in the manner prescribed by commissioner rule.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.17, eff. September 1, 2007.

Sec. 4151.206. FEES. (a) The commissioner shall collect and an applicant or administrator shall pay to the commissioner fees in an amount to be determined by the commissioner as follows:

(1) a filing fee not to exceed \$1,000 for processing an original application for a certificate of authority for an administrator;

(2) a fee not to exceed \$500 for an examination under Section 4151.201; and

(3) a filing fee not to exceed \$200 for an annual report.

(b) The commissioner shall deposit a fee collected under Subsection (a)(1) or (3) to the credit of the Texas Department of Insurance operating account.

(c) The commissioner shall deposit a fee collected under Subsection (a)(2) to the credit of the account described by Section 401.156(a).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 3B.074, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 9.074, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.18, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 659 (S.B. 1291), Sec. 6, eff. September 1, 2011.

Sec. 4151.210. EFFECT OF REVOCATION OF OTHER CERTIFICATES.

An officer or a director or a shareholder with a controlling interest of an entity whose certificate of authority to engage in the business of insurance or other analogous authorization has been revoked in this state or in any other state may not act as an officer, director, member, manager, or partner, or as a shareholder with a controlling interest, of an entity that holds a certificate of authority issued under this chapter unless the commissioner determines, for good cause shown, that it is in the public interest to permit the individual to act in that capacity.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.19, eff. September 1, 2007.

Sec. 4151.211. RESTRICTIONS ON ACQUISITION OF OWNERSHIP INTEREST. (a) A person may not acquire an ownership interest in an entity that holds a certificate of authority under this chapter if the person is, or after the acquisition would be, directly or indirectly in control of the certificate holder, or otherwise acquire control of or exercise any control over the certificate holder, unless the person has filed with the department under oath:

(1) a biographical form for each person by whom or on whose behalf the acquisition of control is to be effected;

(2) a statement certifying that no person who is acquiring an ownership interest in or control of the certificate holder has been the subject of a disciplinary action taken by a financial or insurance regulator of this state, another state, or the United States;

(3) a statement certifying that, immediately on the change of control, the certificate holder will be able to satisfy the requirements for the issuance of a certificate of authority; and

(4) any additional information that the commissioner by rule may prescribe as necessary or appropriate to the public interest and the protection of the insurance consumers of this state.

(b) The department may require a partnership, syndicate, or other group that is required to file a statement under Subsection (a) to provide the information required under that subsection for

each partner of the partnership, each member of the syndicate or group, and each person who controls the partner or member. If the partner, member, or person is a corporation or the person required to file the statement under Subsection (a) is a corporation, the department may require that the information required under that subsection be provided regarding:

- (1) the corporation;
- (2) each individual who is an executive officer or director of the corporation; and
- (3) each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of the corporation.

(c) The department may disapprove an acquisition of control if, after notice and opportunity for hearing, the commissioner determines that:

(1) immediately on the change of control the certificate holder would not be able to satisfy the requirements for the certificate of authority;

(2) the competence, trustworthiness, experience, and integrity of the persons who would control the operation of the certificate holder are such that it would not be in the interest of the insurance consumers of this state to permit the acquisition of control; or

(3) the acquisition of control would violate this code or another law of this state, another state, or the United States.

(d) Notwithstanding Subsection (c), a change in control is considered approved if the commissioner has not proposed to deny the requested change before the 61st day after the date on which the department receives all information required by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. [472](#)), Sec. 1.19, eff. September 1, 2007.

Sec. 4151.212. MAINTENANCE OF QUALIFICATIONS REQUIRED. The department may, in the manner prescribed by Section [4151.056](#) and by Subchapter G, revoke, suspend, or refuse to renew the certificate of authority of a certificate holder who does not maintain the qualifications necessary to obtain a certificate of authority

issued under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.19, eff. September 1, 2007.

SUBCHAPTER F. WORKERS' COMPENSATION BENEFIT PLANS

Sec. 4151.251. DEFINITION. For purposes of this subchapter only, "insurance carrier" means:

- (1) an insurance company; or
- (2) a certified self-insurer for workers' compensation insurance, other than a certified self-insurance group under Chapter 407A, Labor Code, or a governmental entity that self-insures.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

Sec. 4151.252. APPLICATION. (a) This subchapter applies to the administration of workers' compensation insurance coverage.

(b) This subchapter does not apply to an employer that does not elect under Subchapter A, Chapter 406, Labor Code, to obtain workers' compensation insurance coverage.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

Sec. 4151.253. AGREEMENTS BETWEEN ADMINISTRATORS AND CARRIERS. (a) An administrator shall enter into a contract in connection with workers' compensation benefits for collecting premium or contributions, adjusting claims, or settling claims with the insurance carrier responsible for those claims, including the insurance carrier responsible for claims arising under policies authorized under Section 2053.202(b). A contract required by this subsection may be in the form of a master services agreement.

(b) A contract required by Subsection (a) must provide that:

- (1) the contract does not limit in any way the insurance carrier's authority or responsibility, including financial responsibility, to comply with each statutory or regulatory requirement; and

(2) the administrator shall comply with each statutory or regulatory requirement relating to a function assumed by or carried out by the administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

Sec. 4151.254. AGREEMENTS BETWEEN ADMINISTRATORS AND EMPLOYERS. (a) In addition to the contract required by Section 4151.253, an administrator may also enter into a contract with an employer in connection with workers' compensation benefits for collecting premium or contributions, adjusting claims, or settling claims, including an employer purchasing a policy authorized under Section 2053.202(b).

(b) A contract entered into under Subsection (a) must provide that:

(1) the contract does not limit or modify in any way:

(A) the insurance carrier's authority or responsibility, including financial responsibility, to comply with each statutory or regulatory requirement; and

(B) the provisions of the contract entered into between the administrator and the insurance carrier under Section 4151.253; and

(2) the administrator shall comply with each statutory or regulatory requirement relating to a function assumed by or carried out by the administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

Sec. 4151.255. ADMINISTRATOR COMPENSATION. Except as provided by Section 4151.117, an administrator may accept compensation of any kind for the performance of administrative services in connection with workers' compensation claims from:

(1) an insurance carrier responsible for those claims;

(2) an employer with whom the administrator has entered into a contract; or

(3) both the insurance carrier and the employer.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20,

eff. September 1, 2007.

Sec. 4151.256. LARGE DEDUCTIBLE POLICIES. An employer who enters into a contract with an insurance carrier under Section 2053.202(b) may not use or contract with an administrator to perform administrative services in connection with workers' compensation benefits unless the administrator has entered into a written agreement with the insurance carrier that:

(1) complies with all the provisions of this chapter;
and

(2) provides that the insurance carrier is responsible for:

(A) setting standards used in the handling of claims; and

(B) arranging for the payment of claims.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

Sec. 4151.257. RULES. The commissioner shall adopt rules to implement the requirements of this subchapter, including rules prescribing requirements for contracts and master services agreements and requirements for the payment of claims. The rules must provide for compliance with the requirements of this chapter for any contract that takes effect or has an annual anniversary date on or after January 1, 2008.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.20, eff. September 1, 2007.

SUBCHAPTER G. DISCIPLINARY ACTIONS; PENALTIES

Sec. 4151.301. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE OF AUTHORITY. The department may deny an application for a certificate of authority or discipline the holder of a certificate of authority under this subchapter if the department determines that the applicant or holder, individually, or through an officer, director, or shareholder:

(1) has wilfully violated an insurance law of this

state;

(2) has intentionally made a material misstatement in the application for a certificate of authority;

(3) has obtained or attempted to obtain a certificate of authority by fraud or misrepresentation;

(4) has misappropriated, converted to the applicant's or holder's own use, or illegally withheld money belonging to:

(A) an insurance carrier, as that term is defined by Section 401.011, Labor Code;

(B) an insurer, as that term is defined by Section 4001.003;

(C) a health maintenance organization; or

(D) an insured, enrollee, injured employee, or beneficiary;

(5) has engaged in fraudulent or dishonest acts or practices;

(6) has materially misrepresented the terms and conditions of an insurance policy, certificate, evidence of coverage, or contract;

(7) has been convicted of a felony;

(8) is in a financial condition, or is operating or conducting business in a manner, that would render further transaction of business in this state hazardous or injurious to insured persons or the public;

(9) has failed to comply with any judgment rendered against the applicant or holder before the 60th day after the date on which the judgment becomes final;

(10) has wilfully violated a commissioner rule;

(11) has refused to be examined or to produce accounts, records, and files for examination as required by this chapter or commissioner rule;

(12) at any time fails to meet a qualification for which issuance of the certificate of authority could have been denied had the failure then existed and been known to the commissioner;

(13) has had a certificate of authority, license, or other authority issued by this state, another state, or the United

States suspended or revoked; or

(14) has failed to timely file the annual report required by Section 4151.205.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.302. REMEDIES FOR VIOLATION OF INSURANCE LAWS OR COMMISSIONER RULES. In addition to any other remedy available under Chapter 82 for a violation of this code, another insurance law of this state, or a commissioner rule, the department may:

(1) deny an application for a certificate of authority;

(2) suspend or revoke a certificate of authority;

(3) place on probation a person whose certificate of authority has been suspended;

(4) assess an administrative penalty; or

(5) reprimand a certificate of authority holder.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.303. PROBATED SUSPENSION. If the suspension of a certificate of authority is probated, the commissioner may require the holder to:

(1) report regularly to the department on any matter that is the basis of the probation; or

(2) limit the holder's practice to the areas prescribed by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.304. HEARING. If the department proposes to deny an application for a certificate of authority, or to suspend or revoke a certificate of authority, the applicant or holder is entitled to notice and a hearing conducted by the State Office of Administrative Hearings as provided by Chapter 40.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.305. APPLICATION FOR CERTIFICATE OF AUTHORITY AFTER DENIAL OR REVOCATION. (a) A person, or officer, director, or shareholder of a person, whose application has been denied or whose certificate of authority has been revoked under this subchapter may not apply for a certificate of authority before the fifth anniversary of:

(1) the effective date of the denial or revocation; or

(2) the date of a final court order affirming the denial or revocation if judicial review was sought.

(b) An application filed after the period required by Subsection (a) may be denied by the commissioner if the applicant fails to show good cause why the denial or revocation should not be a bar to the issuance of a new certificate.

(c) Subsection (b) does not apply to an applicant whose application was denied for failure by the applicant to submit a properly completed application for a certificate of authority.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.306. DISCIPLINARY PROCEEDING FOR CONDUCT COMMITTED BEFORE SURRENDER OR FORFEITURE OF CERTIFICATE. (a) The department may institute a disciplinary proceeding against a former certificate holder, or officer, director, or shareholder of a former certificate holder, for conduct committed before the effective date of a voluntary surrender or automatic forfeiture of the certificate of authority.

(b) In a proceeding under this section, the fact that the certificate holder, or officer, director, or shareholder of a certificate holder, has surrendered or forfeited the certificate does not affect the former certificate holder's, or officer, director, or shareholder of a former certificate holder's, culpability for the conduct that is the subject of the proceeding.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.307. EMERGENCY CERTIFICATE SUSPENSION. (a) The

commissioner may suspend the certificate of an administrator without notice or hearing if the commissioner determines that:

- (1) the administrator is insolvent or impaired;
- (2) an order for receivership, conservatorship, rehabilitation, or any other delinquency regarding the administrator has been entered in any state; or
- (3) the financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(b) On determining that grounds exist under Subsection (a) to suspend the administrator's certificate of authority, the commissioner may issue an order suspending the certificate. The commissioner shall immediately serve notice of the suspension on the holder.

(c) The notice required by Subsection (b) must:

- (1) be personally served on the holder or be sent by registered or certified mail, return receipt requested, to the holder's last known address according to the department's records;
- (2) state the grounds for the suspension; and
- (3) inform the holder of the right to a hearing on the suspension order.

(d) An administrator whose certificate of authority is suspended under this section is entitled to request a hearing on the suspension not later than the 30th day after the date of receipt of notice of the suspension. Not later than the 10th day after the date a hearing is requested, the commissioner shall issue a notice of hearing.

(e) The hearing must be held not later than the 10th day after the date notice of hearing is issued, unless the parties agree to a later date.

(f) A hearing on a suspension order under this section is subject to Chapter 2001, Government Code, and to Subchapter A, Chapter 40. After the hearing, the administrative law judge shall recommend to the commissioner whether to uphold, vacate, or modify the suspension order.

(g) A suspension order issued under this section remains in effect until further action is taken by the commissioner.

Added by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.21, eff. September 1, 2007.

Sec. 4151.308. GENERAL ADMINISTRATIVE SANCTIONS. An administrator or other person who violates this chapter is subject to the sanctions provided by Chapter 82.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005. Renumbered from Insurance Code, Section 4151.207 and amended by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.22, eff. September 1, 2007.

Sec. 4151.309. CRIMINAL PENALTY. (a) An administrator commits an offense if the administrator knowingly violates this chapter or a rule of the commissioner adopted under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$5,000.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005. Renumbered from Insurance Code, Section 4151.208 and amended by Acts 2007, 80th Leg., R.S., Ch. 1176 (H.B. 472), Sec. 1.23, eff. September 1, 2007.